

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CARL DEAN EDWARDS,

Petitioner,

vs.

NYE COUNTY DISTRICT JUDGE, et al.,

Respondents.

Case No. 2:14-cv-00195-JAD-PAL

ORDER

Petitioner has submitted an application to proceed *in forma pauperis* (Doc. 1) and a petition for a writ of habeas corpus. The court finds that petitioner is unable to pay the filing fee. The court has reviewed the petition. Petitioner will need to show cause why the court should not dismiss this action because he has failed to exhaust his available remedies in the state courts.

Petitioner is a prisoner in the custody of the Nevada Department of Corrections, and he has used the court's form for a person in custody pursuant to a judgment of conviction of a state court. However, he is complaining that he has been denied a speedy trial in the Fifth Judicial District Court of the State of Nevada, Nye County, and it appears that he has not yet been tried in that action. Consequently, the court will treat this action as a pre-trial habeas corpus petition pursuant to 28 U.S.C. § 2241.

It appears that petitioner has not exhausted his available state-court remedies. Exhaustion is a prudential requirement for pre-trial petitions. *See Castro-Cortez v. INS*, 239 F.3d 1037, 1047 (9th Cir. 2001), abrogated on other grounds by *Fernandez-Vargas v. Gonzales*, 548 U.S. 30 (2006).

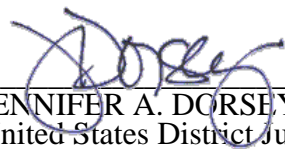
1 On June 27, 2013, petitioner filed in the state district court a proper-person motion to
2 dismiss for the violation of his right to a speedy trial. The state district court denied the motion on
3 November 1, 2013. Based upon petitioner's allegations in the petition and the court's search of the
4 on-line docket of the Nevada Supreme Court, it appears that petitioner never has presented his
5 speedy-trial issue to the Nevada Supreme Court, and thus the speedy-trial issue has not been
6 exhausted. Petitioner needs to show cause why the court should not dismiss this action.

7 **IT IS THEREFORE ORDERED** that the application to proceed *in forma pauperis* (Doc.
8 1) is **GRANTED**. Petitioner need not pay the filing fee of five dollars (\$5.00).

9 **IT IS FURTHER ORDERED** that the clerk of the court shall file the petition for a writ of
10 habeas corpus pursuant to 28 U.S.C. § 2254.

11 **IT IS FURTHER ORDERED** that petitioner shall have thirty (30) days from the date of
12 entry of this order to show cause why the court should not dismiss this action because he has failed
13 to exhaust his available remedies in the state courts. Failure to comply with this order will result in
14 the dismissal of this action.

15 Dated: August 8, 2014.

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18 JENNIFER A. DORSEY
United States District Judge
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